

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

GENERAL ORDER # 12

SUPPLEMENTAL PROCEDURES FOR ELECTRONIC CASE FILING

A select group of Vaccine Act cases participated in a pilot program using the Case Management Electronic Case Filing (“CM/ECF”) System. With the goal of expanding CM/ECF to all Vaccine Act cases, petitioners may now opt to make all filings electronically in petitions filed **after** the effective date of this order.¹ In **pending** cases, counsel may seek leave of the special master to file all subsequent documents electronically. Counsel are advised to read General Order No. 42A “Interim Procedures for Electronic Case Filing,” which can be found on the Court of Federal Claims’ website at www.uscfc.uscourts.gov. ***However, several provisions of that General Order have been modified for Vaccine Act cases***, as will be set forth below.

A. Privacy provisions

The “Privacy Provisions” set forth at Part VII of General Order No. 42A ***do not*** apply in Vaccine Act cases. The reason for this is because the special privacy provisions built into the Vaccine Act itself generally make the provisions of Part VII unnecessary. Instead, the following privacy provisions will apply in *Vaccine Act* cases that become part of the CM/ECF system.

1. Access to electronic file

Documents electronically filed in Vaccine Act cases will *not* be accessible electronically by ordinary users of the CM/ECF system. Instead, *all* such documents shall be considered to have been filed “under seal.” This means that the *only* persons who will be able to access the electronic file in such a case, besides personnel of this court, will be the *counsel of record* in the case.

2. No need to delete personal identifiers from documents

Contrary to the procedure set forth at paragraph 25 of Part VII of General Order No. 42A, parties *need not* and *should not* delete personal identifiers from documents filed in Vaccine Act cases. This is because the *entire documents* are filed under seal and thus are already protected from public view. Therefore, documents containing personal identifiers, such as medical

¹To comply with the Court’s Clerk’s Office’s system of filing, for the time being, all initial petitions, the “short and plain statement of the grounds for an award of compensation” as described in Vaccine Rule 2(d), must be filed and served in paper form. The petition shall clearly indicate petitioner’s desire to have the case designated for CM/ECF. The records and affidavits accompanying the petition, as discussed in Vaccine Rule 2(a), shall be filed electronically, immediately after receipt of an electronic case number from the Clerk’s Office (also see section D below, discussing the alternative method of filing records on CD).

records, shall *not* be redacted, but should be filed in their original form. Similarly, contrary to the procedure set forth at paragraph 3 of General Order No. 42A, parties in Vaccine Act cases should in general not file “excerpts” from documents, but instead file the *entire* documents, thereafter utilizing a memorandum or brief, if appropriate, in order to direct the special master’s attention to the most relevant portions of each document.

B. Organization of documents

With respect to medical records to be filed in CM/ECF cases, General Order No. 42A notes that a single filing may be broken into several Adobe Portable Document Format (“PDF”) files. In order to standardize the CM/ECF process for Vaccine Act cases, when filing multiple records, each PDF file should be separated and labeled in the following manner. First, each PDF filed should be **separated** and **labeled** according to the subject matter of the records, including the institution or physician providing the records. Second, each PDF file should be labeled as a consecutively numbered or lettered exhibit, and should contain a brief written description of the records contained therein. For example, the first Adobe PDF file might contain prenatal records and be labeled: “Petitioner’s Exhibit 1--Prenatal Records, Dr. Smith;” the second PDF file, containing birth records, would read: “Petitioner’s Exhibit 2--Birth Records, Smalltown Hospital;” the third and fourth PDF files, both containing pediatric records from different physicians would read: “Petitioner’s Exhibit 3--Pediatric Records, Dr. John;” “Petitioner’s Exhibit 4 --Pediatric Records, Dr. Jack.”

C. Paper Copies

Please note that, contrary to General Order No. 42A (para. 5), unless otherwise specified, parties in Vaccine Act cases **will not be required** to file paper courtesy copies of electronic documents which exceed 50 pages when printed.²

D. Filing on Optical Disc

Members of the pilot program indicated general agreement that the 2 megabyte file size limit and bandwidth limitations make it very difficult to upload the voluminous medical records typical of Vaccine Act cases. Accordingly, the participants agreed that an exception to the standard CM/ECF filing requirements should be made only for files that were large enough to make uploading impractical. For all other documents, parties shall comply with the existing CM/ECF filing rules and guidelines.

²The parties shall disregard the statement contained in the “Notice of Designation” filed by the Clerk of this Court in a few cases on November 8, 2004, that “[s]ealed documents shall be filed in paper form.” As noted above, *all* documents filed in Vaccine Act cases are automatically “sealed,” so there is no need to file paper documents in order to ensure privacy.

1. *Size of filings allowed to be filed by optical disc*

Filings consisting of **over ten (10) megabytes** of scanned material (approximately 150-200 pages) may be filed by optical disc.

2. *Pagination*

Each exhibit of more than one page shall be paginated (hand-printed pagination is sufficient), and pagination of each exhibit shall be independent.

3. *Disc format*

Discs shall be CD-ROM compatible. Parties shall “close” or finalize the disc so that additional material cannot be written into it. Media shall not be re-writeable to avoid accidental erasure and enhance compatibility with various computers. Discs shall be scanned by appropriate anti-virus software after creation.

4. *Labeling*

The surface of the disc and the disc’s container shall be appropriately printed or labeled with: 1) the case caption, 2) the date of filing, and 3) the range of exhibits the disc contains, e.g., Exhibits 01-20. The disc shall be contained in a paper, plastic, or waxed paper envelope, which shall also bear a caption.

5. *Format of files*

Graphics and handwriting shall be scanned using a resolution of **no less than 300 Dots Per Inch** (“DPI”). All files shall be converted to Adobe 5.0 PDF. No password protection for opening the files may be used. However, password protection for modifying the files may be used.

6. *Organization of files on disc*

Files shall be clearly named to allow someone viewing a directory listing of the disc to discern its contents. Filenames shall begin with the letters “Ex” followed by the exhibit letter or number. Exhibit numbers shall be two digits so that a directory listing sorts in the proper order, e.g., 01, 02, ... 09, 10, 11. A brief description of the content of the exhibit and the docket number, expressed in six digit format, shall follow. Spaces shall be represented by an underscore character. All files shall have “.pdf” as their file extension. The following is an example of the appropriate file format:

Ex03_University_Hospital_98-0000.pdf

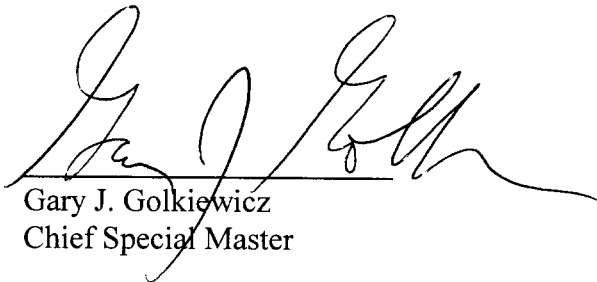
In all other respects, the organization and designation of the exhibits shall be as set forth in the Vaccine Rules and the Guidelines to Practice, which can be found at www.uscf.uscourts.gov/OSMPage.htm.

7. Filing and service

Filing of exhibits on disc shall be accomplished by: 1) creating an appropriate entry in the CM/ECF system, 2) delivering an original and one copy of the disc to the Clerk's office, and 3) serving upon opposing counsel one copy of the disc containing the exhibits. An appropriate entry shall consist of a "Notice of Filing of CD." This Notice of Filing shall contain: 1) an index of exhibits on the CD, 2) a statement certifying that the contents of the disc have been scanned using anti-virus software with up-to-date anti-virus definitions and providing the date of such definitions, and 3) a certificate of service stating when the disc was mailed. It is the parties' duty to ensure that the disc is received at the Clerk's office ***no later than five (5) days after the Notice of Filing is electronically docketed. If the disc is not received within the five day period, the assigned special master may enter an order striking the Notice of Filing from the docket.*** A printed copy of the Notice of Filing shall accompany the disc.

IT IS SO ORDERED.

Date: October 28, 2005



Gary J. Golkiewicz
Chief Special Master